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12 COYNESS L. ENNIX, JR., M.D.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

16 COYNESS L. ENNIX, JR., M.D.,

17 Plaintiff,

18 v.

19 ALTA BATES SUMMIT MEDICAL CENTER,

20 Defendant.

21 CASE NO. C 07-2486 WHA

22 **JOINT SET OF [PROPOSED] VOIR  
DIRE QUESTIONS**

23 **DATE:** May 19, 2008  
**TIME:** 9:00 a.m.  
**DEPT:** Ctrm. 9, 19th Flr.  
**JUDGE:** Hon. William H. Alsup

24 **COMPLAINT FILED:** May 9, 2007  
**TRIAL DATE:** June 2, 2008

With the exception of the questions related to "gender discrimination," which Defendant contends are inappropriate, the parties set forth the following stipulated voir dire questions:

**I. PERSONAL BACKGROUND**

A. Where do you work?

1. How long worked for that company?

2. What do you do?

a) Do you supervise others?

b) How many?

3. How long have you held this position?

B. Prior jobs

C. Where do you currently live?

1. Do you own or rent?

2. How long have you owned/rented that home?

3. How long have you lived in the Bay Area?

4. Where did you live before you lived in the Bay Area?

D. What kinds of things do you do in your spare time?

E. What was the last year of school you attended?

1. When was that?

2. Do you have a degree from high school or college?

a) What school(s)?

3. What was your field of study?

F. Have you or your spouse or domestic partner ever had any legal training?

G. How do you feel about the legal system?

1. Do you feel the legal system is generally fair?

2. Do you feel think people use legal system too often to resolve disputes?

H. Have you ever served on a jury?

1. What kind of trial was it?
  2. How long did it last?
  3. Did it go all the way to a verdict?
  4. Did anything happen in that case that you think might affect your ability to be fair and impartial in this case?
- I. Have you, members of your immediate family or close personal friends, ever been employed by Alta Bates Summit Medical Services, provided goods or services to Alta Bates Summit Medical Center, or had any other business connections with Alta Bates Summit Medical Center?
1. If so, please describe the connection with the Hospital.
- J. Do you have any feelings about Alta Bates Summit Medical Center which might affect your verdict in this case?
- K. Have you, members of your immediate family or close personal friends ever had a negative experience with Alta Bates Summit Medical Center?
1. If so, what were the circumstances?
  2. How did you/they feel the situation was handled?
- L. Do you have any feelings about the plaintiff, Coyness Ennix, Jr., which might affect your verdict in this case?
- M. Do you have any feelings about hospitals in general which might affect your verdict in this case?
- N. Do you feel that you can be as fair in this trial toward a corporation as you will be toward an individual person.
- O. Do you have any feelings about employees of a corporation who testify on behalf of that corporation?
- P. Do you personally know any physicians or surgeons?
- Q. Do you, members of your immediate family or close personal friends have any education or training in the medical field?
- R. Have you ever been employed in a job in the medical field?

- 1           1. If so, what was the position you held?  
 2           2. What did you or do you dislike about this kind of work?  
 3           3. Have you ever been responsible for or participated in evaluating the  
 4           performance of other employees as part of your job?

5       **II. FAMILIARITY WITH WITNESSES**

- 6       A. Dr. Coyness Ennix  
 7       B. Alta Bates Summit Medical Center  
 8       C. William S. Weintraub, M.D.  
 9       D. Alex Zapolanski, M.D.  
 10      E. Eugene Spiritus, M.D.  
 11      F. Margo Leahy, M.D.  
 12      G. Jed Greene, C.P.A.  
 13      H. Bruce Reitz, M.D.  
 14      I. Bruce Lytle, M.D.  
 15      J. Hon Lee, M.D.  
 16      K. Junaid Khan, M.D.  
 17      L. Richard Shaw, Ph.D.  
 18      M. Jai Balkisoon, M.D.  
 19      N. Noli Silva, M.D.  
 20      O. Joe Bermudas, M.D.  
 21      P. Dennis Drew, M.D.  
 22      Q. Rollington Ferguson, M.D.  
 23      R. Dhun Sethna, M.D.  
 24      S. Gregory Quinn, M.D.  
 25      T. General Hilliard, M.D.  
 26      U. Dennis Durzinsky, M.D.  
 27      V. William Isenberg, M.D.  
 28      W. Steven Stanton, M.D.

- 1 X. Russell Stanten, M.D.  
 2 Y. Leigh Iverson, M.D.  
 3 Z. The National Medical Audit  
 4 AA. Mercer Consulting  
 5 BB. Neil Smithline, M.D.  
 6 CC. Leland Housman, M.D.  
 7 DD. Forrest Junod, M.D.  
 8 EE. Lamont Paxton, M.D.  
 9 FF. Dat Ly, M.D.  
 10 GG. Barry Horn, M.D.  
 11 HH. John Donovan, M.D.  
 12 II. Bruce Moorstein, M.D.  
 13 JJ. Warren Kirk  
 14 KK. Fredric Herskowitz, M.D.  
 15 LL. Robert H. Breyer, M.D.  
 16 MM. J. Donald Hill, M.D.  
 17 NN. Brian Hite, M.D.  
 18 OO. Annette Shaieb, M.D.  
 19 PP. Marilyn Barkin, RN  
 20 QQ. Kathy Falstad  
 21 RR. John Caldwell  
 22 SS. Ronald Dritz, M.D.  
 23 TT. Gretchen Kunitz, M.D.  
 24 UU. Harry Shulman  
 25 VV. Joanne Jellin  
 26 WW. Albertine Omani, M.D.  
 27 XX. Coletta Hargis, M.D.  
 28 YY. Tracy Phillips, M.D.

1 ZZ. Filberto Burciaga  
2 AAA. Makalita Leao  
3 BBB. Alice Ashton  
4 CCC. Donald Aissa  
5 DDD. Jessie Lozano  
6 EEE. Esther Huitron  
7 FFF. Jean Tenret  
8 GGG. Kim Ware  
9 HHH. John Gentile, M.D.  
10 III. Lisa Yee, M.D.  
11 JJJ. James R. Saudners, M.D.  
12 KKK. Louis Komarmy  
13 LLL. Joan Shields, RN  
14 MMM. Gregory M. Duncan, Ph.D  
15 NNN. Larry Zemansky, M.D.  
16 OOO. James Lovin  
17 PPP. Renee Russell

18 **III. CARDIAC SURGERY**

- 19 A. Have you ever worked in the medical or health care industries?  
20     1. Where?  
21     2. When?  
22     3. How would you describe your experience?  
23 B. Has anyone in your family worked in the medical or health care industries?  
24     1. Where?  
25     2. When?  
26     3. How would you describe your experience?  
27 C. Have any of your friends worked in the medical or health care industries?  
28

- 1           1. Where?
- 2           2. When?
- 3           3. What have they told you about their experience?
- 4           D. Have you ever had cardiac surgery or other serious surgery?
  - 5           1. What type?
  - 6           2. When?
  - 7           3. How would you describe your experience?
- 8           E. Has anyone in your family ever had cardiac surgery or other serious
  - 9           surgery?
    - 10          1. What type?
    - 11          2. When?
    - 12          3. How would you describe your experience?
- 13          F. Have any of your friends ever had cardiac surgery or other serious
  - 14          surgery?
    - 15          1. What type?
    - 16          2. When?
    - 17          3. How would you describe your experience?
- 18          G. Do you know what medical peer review is?
- 19          H. Have you, members of your immediate family or close personal friends
  - 20          ever had any experience with medical peer review?
- 21          I. Some professions have a process called peer review whereby
  - 22          professionals with similar backgrounds review each other's work. Have you ever
    - 23          been involved in any type of professional peer review process like that?
      - 24          1. What type?
      - 25          2. When?
      - 26          3. How would you describe your experience?
- 27          J. You will hear evidence that patients of cardiac surgeons sometimes die
  - 28          during or after cardiac surgery. You will hear evidence that deaths arising

1 out of cardiac surgery are not necessarily the fault of the surgeon, but may,  
 2 for example, be due the poor health of the patient. If you hear that some  
 3 patients of a particular cardiac surgeon died during or shortly after surgery,  
 4 will you find it difficult to accept that the cardiac surgeon might not have  
 5 done anything wrong regarding those patients?

- 6 K. Have you, members of your immediate family or close personal friends  
 7 ever had complications related to surgery?  
 8 L. Have you ever distrusted something a doctor has told you?

9 **IV. PRIOR CLAIMS AND LAWSUITS**

- 10 A. Have you or anyone close to you (such as a close friend or relative) ever  
 11 been a party to a lawsuit?  
 12     1. What kind of a lawsuit was it?  
 13     2. Was anyone seeking money damages?  
 14     3. Was anyone making a claim of breach of contract?  
 15     4. Was anyone making a claim of discrimination?  
 16     5. Were you (or was your friend or relative) the plaintiff or the  
 17 defendant?  
 18     6. What was the outcome of that case?  
 19     7. Do you think that the outcome was fair?  
 20 B. Is there anything about your experience with that or other lawsuits that  
 21 might make it more difficult for you to be fair and impartial in this trial?  
 22 C. Have you, members of your immediate family or close personal friends,  
 23 ever been subject to serious discipline at work?  
 24     1. If yes, what were the circumstances?  
 25     2. Did you or they feel that the discipline was unfair or unjustified?  
 26     3. If so, why?

- 1           D. Have you, members of your immediate family or close personal friends  
2           ever made a complaint or filed a lawsuit against a hospital? If so, what  
3           was the nature of the complaint or the lawsuit?
- 4           E. Have you, members of your immediate family or close personal friends  
5           ever filed a grievance or lawsuit because of something that happened to  
6           you at work? If so, what was the nature of the grievance or lawsuit?
- 7           F. Have you ever received a performance evaluation from your employer that  
8           you believed was unfair?
- 9           G. Have you, members of your immediate family or close personal friends  
10          ever complained that your employer or their employer acted in violation of  
11          a law?  
12          1. If so, what were the complaints?  
13          2. Did anything happen to you or them?
- 14          H. Have you, members of your immediate family or close personal friends  
15          ever had a serious dispute with an employer?  
16          1. If so, what was the nature of the dispute?  
17          2. What was the outcome of the dispute?
- 18          I. Do you have strong feelings about healthcare issues?  
19          1. If so, what are they?
- 20          J. Have you, members of your immediate family or close personal friends  
21          ever made a complaint or filed a lawsuit due to a medical procedure or  
22          surgery?  
23          1. If so, what was the nature of the complaint or lawsuit?  
24          2. What was the outcome of that complaint or lawsuit?
- 25          K. Have you, member of your immediate family or close personal friends ever  
26          filed any formal or informal complaints of discrimination at work?  
27          1. If so, what was the nature of your complaint?

- 1 L. Have you, members of your immediate family or close personal friends  
 2 ever believed that they were mentally or emotionally injured because of  
 3 something that happened to them at work?  
 4 1. If so, what was the nature and the cause of the injury?  
 5 2. Have you ever felt that you were being discriminated against at work?
- 6 M. Would you award plaintiff damages just because you think Alta Bates  
 7 Summit Medical Center can pay them?  
 8 1. If so, why?
- 9 N. Do you believe that the filing of a lawsuit means that the person who  
 10 brought the lawsuit is entitled to recover at least some money?  
 11 1. If so, why?
- 12 O. Is there anything that you have heard about this case that comes too close  
 13 to home or affects you directly because of your own personal experiences  
 14 that you think you would substitute your personal views for what the Court  
 15 tells you the law is?
- 16 P. Is there anything you have heard about this case that causes you to  
 17 believe you might be biased for or against either the defendant or the  
 18 plaintiff in this case?
- 19 Q. You will hear testimony in this case over a period of days, but the matter  
 20 will not be submitted to you until the end of the case when the court  
 21 instructs you on the law. Can you keep an open mind and not form any  
 22 conclusions for or against any party until you have heard all of the  
 23 evidence?

24 V. **DISCRIMINATION**

- 25 A. Have you or anyone close to you ever been the victim of discrimination  
 26 based on your race [or gender]<sup>1</sup>?  
 27 1. When?

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28 <sup>1</sup> Disputed throughout.

## 2. What were the circumstances?

B. Have you or anyone close to you ever been accused of discriminating against someone based on their race [or gender]?

## 1. When?

## 2. What were the circumstances?

C. Have you ever observed what you believed to be discrimination against someone based on their race [or gender]?

## 1. When?

## 2. What were the circumstances?

D. Do you any trouble believing that in this decade and in the Bay Area, discrimination based on race [or gender] might still go on?

DATED: May 12, 2008

Respectfully submitted,

KAUFF MCCLAIN & MCGUIRE LLP

By: \_\_\_\_\_ /S/  
ALEX HERNAEZ

Attorneys for Defendant  
ALTA BATES SUMMIT MEDICAL  
CENTER

DATED: May 12, 2008

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